The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the Untied States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a)	PLAINTIFFS ROBBIN L. COLLIER and JOYCE COLLIER, h/w			I	<b>DEFENDANTS</b> HONEYWELL INTERNATIONAL, F/K/A ALLIED SIGNAL,						
,							Succe	essor in i	nterest to Bendix	Corporat	tion
(b)	COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF NJ				COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT MORRIS COUNTY,						
		(EXCEPT IN	U.S. PLAINTIFF CA	ASES)	ELAWARE COUNTY		NOTE:	IN L	(IN U.S. PLAIN AND CONDEMNATION ATION OF THE TRACT	CASES, U	ES ONLY) ISE THE INVOLVED
(c)	ATTORNEYS (FIRM N	AME ADDDESS	: AND TELEPHONE	- NI IMBED	)	Λ.	TTORNEYS (IF KN				
(0)	Anapol, Schwartz, Weis	•		- NOWIDEN	.,		awle & Henderson L	,			
	1900 Delancey Place Philadelphia, PA 19103 215-790-4572	, ,	,			0	ne Widener Building ne South Penn Squa hiladelphia, PA 1910 (215) 57	are			
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9 220	Foreclosure		mployment	•	Sentence	<b>9</b> 740	Railway Labor	•	or Defendant)		tion Under Equal Access
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7 290	All Other Real Property	7 440 Ot	ther Civil Rights			<b>7</b> /91	Empl. Ret. Inc. Security Act			<b>∧</b> 890	Other Statutory Actions

## Case 2:02-cyoQ3174 on Poictio Documents of Divers Filled 05/23/2002 Page 2 of 17

28 USC '1452(A) '1334(B) and Federal Bankruptcy Rule 9027 CHECK IF THIS IS A CLASS ACTION VII. REQUESTED IN **DEMAND \$** Check YES only if demanded in complaint: **COMPLAINT: 9** UNDER F.R.C.P. 23 JURY DEMAND: 9 YES 9 NO VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE N/A DOCKET NUMBER N/A SIGNATURE OF ATTORNEY OF RECORD DATE FOR OFFICE USE ONLY \_\_\_\_\_ APPLYING IFP\_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE RECEIPT #\_\_ \_ AMOUNT\_\_\_

## Case 2:02-cv-03174-JP Document 1 Filed 05/23/2002 Page 3 of 17 UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA C DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address	of Plaintiff: Robbin and Joyce Collier, 112 West 24th St. of Defendant: Honeywell International, f/k/a Allied Signal rsey 07962			nrk Avenue, Morristown,		
	f Accident, Incident or Transaction: <u>Asbestos Exposure in</u> (Use Reverse Side For Additional Space)	n Pennsylva	ania and elsewher	<u>e</u>		
Does th	is case involve multidistrict litigation possibilities?		Yes X	No <b>G</b>		
RELATE	ED CASE IF ANY					
Case Nur Civil cas	mber: N/A Judge N/A es are deemed related when yes is answered to any of the following	_Date Terming questions:	nated: <u>N/A</u>			
1. Is	Yes <b>G</b> No <b>G</b>					
	oes this case involve the same issues of fact or grow out of the same rior suit pending or within one year previously terminated action in		as a	Yes <b>G</b> No <b>G</b>		
ea	3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this  Yes <b>G</b> No <b>G</b>					
CIVIL: (	Place: in ONE CATEGORY ONLY)					
1. <b>GGGGGGGGGGGGGGGGGGGGGGGGGGGGGGGGGGGG</b>	Civil Rights Habeas Corpus Securities Act(s) Cases Social Security Review Cases All other Federal Question Cases (please specify) 28 USC ' 1452,	1. <b>G</b> 2. <b>G</b> 3. <b>G</b> 4. <b>G</b> 5. <b>G</b> 7. <b>G</b> 8. <b>G</b> 9. <b>G</b>	Airplane Personal Assault, Defamati Marine Personal I Motor Vehicle Per Other Personal In Products Liability Products Liability All Other Diversit	ct and Other Contracts Injury ion njury rsonal Injury jury (Please specify)  CAsbestos ty Cases (Please specify)		
	ARBITRATION CERT (Check appropriate Co		ON			
I, Peter	J. Neeson, Esquire, counsel of record do hereby certify:					
X G	Pursuant to Local Civil Rule 8, Section 4(a)(2), that, to the best recoverable in this civil action case exceed the sum of \$150,000 Relief other than monetary damages is sought.	•	•	damages		
DATE: _	Peter J. Neeson, Esquire Attorney-at-Law	27601	Attorney	I.D. #		
	NOTE: A trial de novo will be a trial by jury only if ther					
	that, to my knowledge, the within case is not related to any case this court except as noted above.	se now pend	ing or within one y	year previously terminated		
		2760	<u>1</u>			

Case 2:02-cv-03174-JP Document 1 Filed 05/23/2002 Page 4 of 17 Attorney I.D. # 17

CIV. 609(9/99)

## Case 2:02-cv-03174-IP Document 1 Filed 05/23/2002 Page 5 of 17

 $FOR\ THE\ EASTERN\ DISTRICT\ OF\ PENNSYLVANIA\ C\ DESIGNATION\ FORM\ to\ be\ used\ by\ counsel\ to\ indicate\ the\ category\ of\ the\ case$  for the purpose of assignment\ to\ appropriate\ calendar.

	Robbin and Joyce Collier, 112 West 24th Honeywell International, f/k/a Allied Signature.					
New Jersey 0796						
	(Use Reverse Sic	le For Additional Sp	ace)			
Does this case inv	olve multidistrict litigation possibilities?		Yes $X$ No $G$			
RELATED CASE I	IF ANY					
Case Number: N/Civil cases are deem	A Judge N/A ned related when yes is answered to any of the following the state of t	Date Terminated wing questions:	d: <u>N/A</u>			
	Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes $\mathbf{G}$ No $\mathbf{G}$					
	se involve the same issues of fact or grow out of the ading or within one year previously terminated action		Yes <b>G</b> No <b>G</b>			
	te involve the validity or infringement of a patent a ered case pending or within one year previously ter					
CIVIL: (Place: in	ONE CATEGORY ONLY)					
<ol> <li>G FELA</li> <li>Jones Ac</li> <li>G Antitrust</li> <li>G Patent</li> <li>G Labor-Ma</li> <li>G Civil Right</li> <li>G Habeas C</li> <li>G Securities</li> <li>G Social Sec</li> </ol>	y Contract, Marine Contract, and All Other Contract tCPersonal Injury nagement Relations nts	1. <b>G</b> Ir 2. <b>G</b> A 3. <b>G</b> A 4. <b>G</b> M 5. <b>G</b> M 6. <b>G</b> O 7. <b>G</b> Pr 8. <b>G</b> Pr 9. <b>G</b> A	ity Jurisdiction Cases: asurance Contract and Other Contracts irplane Personal Injury assault, Defamation Iarine Personal Injury Intor Vehicle Personal Injury Inther Personal Injury (Please specify) Iroducts Liability Iroducts Liability Ither Diversity Cases (Please specify) Interpretation of the Contraction of the			
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	(Check appropriat					
I, Peter J. Neeson, I	Esquire, counsel of record do hereby certify:					
recover	at to Local Civil Rule 8, Section 4(a)(2), that, to the lable in this civil action case exceed the sum of \$150 other than monetary damages is sought.	•	_			
DATE:	Peter J. Neeson, Esquire Attorney-at-Law	<u>27601</u>	Attorney I.D. #			
	<b>NOTE:</b> A trial de novo will be a trial by jury only if	there has been compl	liance with F.R.C.P. 38.			
	y knowledge, the within case is not related to any except as noted above.	y case now pending	or within one year previously terminated			
DATE:		27601				
CIV. 609(9/99)	Attorney-at-Law		Attorney I.D. #			

## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

## CASE MANAGEMENT TRACK DESIGNATION FORM

ROBBIN L. CO JOYCE COLLII		: :			
f/k/a ALLIED S	: INTERNATIONAL, INC. IGNAL, INC., Successor NDIX CORPORATION,	: Civil Action No. 02-3174			
shall complete a capy and serve a copy the event that a d with its first appe	Case Manage Track Designation on all defendants. (See 1:00) efendant does not agree with the parance, submit to the clerk of comparison.	d Delay Reduction Plan of this court, counsel for plaintiff in Form in all civil cases at the time of filing the complaint 3 of the plan set forth on the reverse side of this form.) In the plaintiff regarding said designation, that defendant shall court and serve on the plaintiff and all other parties, a case the track to which that defendant believes the case should be			
SELECT ONE	OF THE FOLLOWING CASI	E MANAGEMENT TRACKS:			
(a) Habea	as Corpus Cases brought ur	nder 28 U.S.C. ' 2441 through ' 2255( )			
	Security Cases requesting ruman Services denying plaintif	eview of a decision of the Secretary of Health f Social Security Benefits.( )			
(c) Arbiti	_	esignated for arbitration under Local Civil Rule			
	stos Cases involving claims ure to asbestos.( )	r personal injury or property damage from			
comm the co	Special Management Cases that do not fall into tracts (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases)( $\mathbf{X}$ )				
(f) Stand	ard Management Cases that	do not fall into any one of the other tracks.( )			
(Date)		Attorney-at-law Attorneys for Defendant Honeywell International, Inc., f/k/a Allied Signal as successor in interest to Bendix Corporation			

RAWLE & HENDERSON LLP BY: PETER J. NEESON, ESQUIRE

STEWART R. SINGER, ESQUIRE JOHN C. McMEEKIN II, ESQUIRE

INC.,

ATTORNEY I.D. NO. 27601/62006/81250

THE WIDENER BUILDING ONE SOUTH PENN SQUARE PHILADELPHIA, PA 19107

(215) 575-4200

**R&H** File No.: 516,189 (Anapol)

ATTORNEYS FOR DEFENDANT, HONEYWELL INTERNATIONAL, INC., F/K/A ALLIED SIGNAL,

SUCCESSOR-IN-INTEREST TO BENDIX CORPORATION

UNITED STATES DISTRICT COURT [EASTERN DISTRICT]

ROBBIN L. COLLIER and : JOYCE COLLIER, h/w :

v. :

•

HONEYWELL INTERNATIONAL, INC. : Civil Action No. 02-3174

f/k/a ALLIED SIGNAL, INC., Successor in interest to BENDIX CORPORATION

## NOTICE OF REMOVAL PURSUANT TO 28 U.S.C ' 1452 AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 9027

### TO: ALL PARTIES ON ANNEXED SERVICE LIST

Honeywell International, Inc., f/k/a Allied Signal, Inc., (AHoneywell®), as successor in interest to the Bendix Corporation (ABendix®), by and through its undersigned counsel, Rawle & Henderson LLP, hereby gives notice of the removal to the United States District Court for the Eastern District of Pennsylvania of the claims that have been asserted against Honeywell in the action captioned Robbin L. Collier and Joyce Collier, h/w v. Pneumo Abex Corp., et al, now pending in the Common Pleas Court of the State of Pennsylvania, County of Delaware, with April Court Term and Number 02-60125. This Notice of Removal is filed pursuant to 28 U.S.C. 1452(a) and Rule 9027(a)(3) of the Federal Rules of Bankruptcy Procedure, and as grounds for such removal Honeywell respectfully states as follows:

1. On October 1, 2001 (the "Petition Date"), Federal-Mogul Global, Inc. (collectively "Federal-Mogul") filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Code,

11 U.S.C. 11 101 et seq. (the ABankruptcy Code®) in the United States Bankruptcy Court for the District of Delaware, commencing bankruptcy case number 01-10578.

- 2. The above referenced state action, which is Arelated to@ the removed claims, was commenced on April 8, 2002, by the filing of a Summons & Complaint in the Court of Common Pleas of Delaware County.
- 3. The removed claims are for personal injury or wrongful death asserted against Honeywell. Honeywell, formerly known as Allied Signal Inc., is the successor in interest to Allied Corporation which, in turn, was the successor in interest to The Bendix Corporation. The Automotive Sector of Allied Signal Inc. was the business unit within Allied Signal Inc. which continued the ABendix@ line of automotive friction products.
- 4. Federal-Mogul, or companies acquired by Federal Mogul Global, Inc., are named as codefendants of Honeywell in this action.
- 5. The plaintiff(s) in the above referenced action have asserted that joint and several liability arises as to each named co-defendant in this action.
- 6. As a result, in the above referenced action Honeywell has either affirmatively asserted a cross-claim for indemnification and/or contribution against Federal-Mogul, or such a cross-claim against Federal-Mogul arises automatically by operation of law.
- 7. Conversely, Federal-Mogul has also either affirmatively asserted a cross-claim for indemnification and/or contribution against Honeywell, or such a cross-claim against Honeywell arises automatically by operation of law.
- 8. The above referenced claims for personal injury asserted against Honeywell, as well as the cross-claims asserted by Honeywell and the corresponding cross-claims asserted by Federal-Mogul, may

be removed to this Court pursuant to 28 U.S.C. ¹ 1452(a). Removal of these claims is proper because the removed claims are: asserted in a civil action; not exempt from removal; and this Court has subject matter jurisdiction over the removed claims pursuant to 28 U.S.C. ¹ 1334 due to the fact that these cross-claims asserted by and against Honeywell are Arelated to@ Federal-Mogul=s bankruptcy proceeding. See In re Dow Corning Corp., 86 F.3d 482, 494 (6th Cir. 1996) (holding that Section 1334(b) Arelated to@ subject matter jurisdiction exists over actions for indemnification and contribution claims asserted by non-debtor codefendants against the debtor).

- 9. Removal to this Court is timely pursuant to Rule 9027 (a)(3) of the Federal Rules of Bankruptcy Procedure in that the claims in the civil action are Arelated to@the October 1, 2001, Federal-Mogul bankruptcy case, and this Notice has been filed within thirty days after: (1) receipt of the initial pleading setting forth the claim or cause of action sought to be removed, or (2) receipt of the summons, if the initial pleading has been filed with the court but not served with the summons.
- 10. Consent of the other named co-defendants is not necessary for removal pursuant to 28 U.S.C. 1452. See Creasy v. Coleman Furniture Corp., 763 F.2d 656, 660 (4th Cir. 1985). Further, a cost bond is not required to accomplish this removal.
- 11. Upon removal, the proceedings with respect to the removed claims are non-core. Honeywell does not consent to entry of a final order or judgment by the bankruptcy judge to the extent the bankruptcy court is authorized to hear or determine such claims consistent with 28 U.S.C. ' 157(b)(5).
- 12. On December 17, 2001, Honeywell filed a Motion to Transfer, pursuant to 28 U.S.C. ¹ 157 (b)(5) (the ATransfer Motion®), with the United States District Court for the District of Delaware asking that Court to issue a provisional order to transfer the above referenced removed claims for a consolidated resolution of the threshold scientific question, by means of a Daubert hearing, whether the plaintiffs in the

underlying actions can establish that automotive friction products containing encapsulated asbestos fibers can be the proximate cause of certain asbestos-related medical disorders. See 28 U.S.C. ' 157(b)(5) (1994); Daubert v. Merrill Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993); In re Dow Corning Corp., 86 F.3d at 496-97 (holding that 28 U.S.C. ' 157(b)(5) vests the power to fix venue over personal injury or wrongful death actions pending against non-debtor co-defendants which are Arelated to@ a debtor=s

bankruptcy proceeding, pursuant to 28 U.S.C. 1334(b), with the district court where the bankruptcy case

Filed 05/23/2002

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Document 1

resides). See Exhibit AA.@

Case 2:02-cv-03174-JP

- 13. On December 19, 2001 the Honorable Alfred M. Wolin of the United States District Court for the District of Delaware issued an Order in favor of Honeywell that: (1) partially withdrew the reference; and (2) provisionally transferred the Friction Product claims to the United States District Court for the District of Delaware, (the AProvisional Order®), subject to further Orders of that Court. See Exhibit AB.®
- 14. On January 4, 2002 the Honorable Alfred M. Wolin of the United States Bankruptcy Court for the District of Delaware issued an Order (the AClarification Order®), that clarified the Provisional Order by extending the provisional transfer of Friction Product claims to include claims that would have been subject to the Provisional Order, but had not yet been removed on the date of the Provisional Order. See Exhibit AC.®
- 15. On February 8, 2002 the Honorable Alfred M. Wolin of the United States Bankruptcy Court for the District of Delaware issued an Order (the ARemand Order@), granting plaintiffs=Motion for Remand. See Exhibit AD.@
- 16. On February 11, 2002 the Honorable Anthony J. Scirica of the United States Court of Appeals for the Third Circuit issued an Order temporarily granting an Emergency Motion for Stay (the AStay Order@), pending appeal of the Remand Order by appellants. See Exhibit AE.@

- 17. On March 19, 2002, the Honorable Anthony J. Scirica of the United States District Court of Appeals for the Third Circuit issued an Order (the AStay Clarification Order@), that clarified that the Stay Order issued on February 11, 2002 applies to all appellants and to all removed claims before the Delaware District Court. See Exhibit AF.@
- 18. On March 25, 2002, Chief Judge Becker of the Third Circuit Court of Appeals issued an order establishing a briefing schedule and set June 17, 2002, as the date to hear oral argument on the appeal (the AScheduling Order@). See Exhibit AG.@
- 19. A copy of the Scheduling Order also provides that A[t]he temporary stay entered by this Court on February 11, 2002, as clarified by the Order of March 19, 2002, will remain in effect until further order of the merits panel.@ See Exhibit AG.@
- 20. Honeywell respectfully submits that the effect of the stay pending appeal is to leave in place the previous transfer orders issued by the Delaware District Court. Because the Remand Order has been stayed, the Delaware District Court=s provisional transfer order is still the operative order, and all claims removed by Honeywell continue to be provisionally transferred automatically to Delaware.
- 21. Accordingly, pursuant to Judge Weiners Order dated April 12, 2002 (the AAbstention/Remand Order®) Aall pending motions for abstention and remand are denied without prejudice.

  . . [t]he cases are administratively dismissed, subject to reinstatement following the determination of the bankruptcy issyes by Judge Wolin and any subsequent appeals thereto.® See Exhibit AH.®

22. A copy of this Notice of Removal and related documents have been served by regular mail on counsel of record for all represented parties and upon all unrepresented parties to the action pending in state court.

Respectfully submitted,

## RAWLE & HENDERSON LLP

By:

Peter J. Neeson, Esquire Stewart R. Singer, Esquire John C. McMeekin II, Esquire

Attorneys for Defendant

Honeywell International, Inc., f/k/a Allied Signal as successor in interest to Bendix Corporation

Dated:

# CERTIFICATION OF STATE COURT RECORDS, PLEADINGS AND PROCEEDINGS

I, Peter J. Neeson, Esquire; Stewart R. Singer, Esquire; John C. McMeekin, Esquire; of full age, certify that on this day, we attached to the Notice of Removal as Exhibit Al@, a copy of all of the appropriate records, pleadings and proceedings in the State Court as requested by this Court.

Respectfully submitted,

## RAWLE & HENDERSON LLP

By:

Peter J. Neeson, Esquire Stewart R. Singer, Esquire John C. McMeekin II, Esquire

Attorneys for Defendant

Honeywell International, Inc., f/k/a Allied Signal as successor in interest to Bendix Corporation

Dated:

## **CERTIFICATION OF SERVICE**

I, Peter J. Neeson, Esquire/Stewart R. Singer, Esquire/John C. McMeekin II, Esquire, of full age, hereby certify that on this day, I caused a true and correct copy of Defendant=s Notice to Remove Pursuant to 28 U.S.C. 1452 of the United States Code and Rule 9027(a)(3) of the Federal Rules of Bankruptcy Procedure to be served on all counsel listed below as follows.

### VIA HAND DELIVERY

Lawrence R. Cohan, Esquire Anapol Schwartz Weiss Cohan Feldman & Smalley 1900 Delancey Place Philadelphia, PA 19103 Attorney for Plaintiffs

Edward J. Wilbraham, Esquire Wilbraham, Lawler & Buba Suite 3100, 1818 Market Street Philadelphia, PA 19103

# Attorney for Pneumo Abex Corporation, Dana Corporation, Georgia Pacific Corporation and Maremont Corporation

Robert W. Rowan, Esquire Gollatz, Griffin & Ewing, P.C. Two Penn Center, 16th Floor 15th and JFK Boulevard Philadelphia, PA 19102 Attorney for ACandS, Inc.

M. Douglas Eisler, Esquire
Wilson, Elser, Moskowitz, Edelman & Dicker LLP
The Curtis Center, Suite 1130 East
Independence Square West
Philadelphia, PA 19106
Attorney for A.W. Chesterton

John F. Kent, Esquire Kent & McBride, P.C. Two Logan Square, Suite 600 18th and Arch Streets

## Philadelphia, PA 19103 **Attorney for A-Best Products**

Joseph M. O'Neill, Esquire Marks, O'Neill, Reilly, O'Brien & Courtney, P.C. 1880 JFK Blvd., Suite 1200 Philadelphia, PA 19103 Attorney for Airco Welders Supply

Daniel J. Ryan, Jr., Esquire Marshall, Dennehey, Warner, Coleman & Goggin 1845 Walnut St. Philadelphia, PA 19103

## Attorney for American Standard, Inc. and Bondex International, Inc.

Norman L. Haase, Esquire Swartz, Campbell & Detweiler 115 North Jackson Street Media, PA 19063

## Attorney for Brand Insulations, Inc.

Michael P. Creedon, Esquire Creedon & Feliciani 29 E. Marshall Street Norristown, PA 19401

## **Attorney for Burnham Boiler Corporation**

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Delany & O'Brien
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Philadelphia, PA 19106

## **Attorney for Combustion Engineering**

Joseph R. Glancy, Esquire
Stack & Stack
1600 Locust Street
Philadelphia, PA 19103
Attorney for Crown, Cork & Seal

Mark Lipowicz, Esquire Duane Morris LLP 4200 One Liberty Place Philadelphia, PA 19103

## **Attorney for Ford Motor Company**

Christine O. Boyd, Esquire Lavin, Coleman, O'Neil, Ricci, Finarelli & Gray Penn Mutual Tower 510 Walnut Street, 12th Floor Philadelphia, PA 19106

## **Attorney for General Motors Corporation**

Tracey M. McDevitt, Esquire Reilly, Janiczek & McDevitt, P.C. The Widener Building, Suite 520 One South Penn Square Philadelphia, PA 19107

## **Attorney for Foster Wheeler Corporation**

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By:

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Dated: